

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed May 19, 2009. Claims 1-3, 6-7, 12, 17, 23-24, and 34-43 were pending and rejected. Claims 1, 6-7, 12, 17, 23-24, and 34-39 are amended herein. Support for the amendments can be found at least at paragraphs 24, 25, 27, 30-32, and 52 of the specification as originally filed. No new matter is introduced. No claim is newly added. Accordingly, Claims 1-3, 6-7, 12, 17, 23-24, and 34-43 remain pending. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 112

Claims 1-3, 6-7, 12, 23, 24, and 34-42 were rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 6-7, 12, 23-24, and 34-39 are amended herein. Applicant believes the amendments to Claims 1, 6-7, 12, 23-24, and 34-39 sufficiently overcome this rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1-4, 6-9, 12-17, 19-20, 23-24, 28-29, and 34-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,895,405 ("Choi") in view of U.S. Patent Application Publication No. 2003/0033193 ("Holloway"). Claims 4, 8-9, 13-16, 19-20, and 28-29 were canceled previously, rendering the rejections with respect to these claims moot. Claims 1, 6-7, 12, 17, 23-24, and 34-39 are amended herein. Applicant believes the amendments to Claims 1, 6-7, 12, 23-24, and 34-39 sufficiently overcome the 35 U.S.C. §103(a) rejections. Additionally differences between embodiments as claimed in Claims 1-3, 6-7, 12, 17, 23-24, and 34-43 and the combination of Choi and Holloway are presented below for the Examiner's consideration.

In embodiments as claimed, a method for optimizing a process may involve receiving information about a customer and a customer need. The information may be received from the consumer directly, such as by polling, or may be based on indirect methods, such as by gathering clickstream data or acquiring information from an agent (e.g., a call center employee). Based on the customer information, the customer can be matched to a profile and an offer may

be selected for presenting to the customer. The offer is a unique offer from a set of offers associated with the profile, the customer need and a business context. Responses to the offers may be received and stored in a database for multiple customers. At some point, a distribution of customer responses may be determined for a set of offers and analyzed to determine one offer of the set of offers that best fits the customer need and the business context for the profile. Periodically, the set of offers in the action database may be updated such that future offers presented to customers associated with the profile are selected by the action selection module from the updated action database.

Choi is generally concerned with segmentation. Choi teaches using computer-assisted systems and methods for determining the effectiveness of survey questions. Thus, when a user answers a question presented by Choi, Choi describes various methods to determine whether to keep the answer, calculate a response distribution for selected populations, and cluster the retained answers. (See, Choi, Col. 5, line 7 – Col. 8, line 62.)

In contrast to the methods taught by Choi, Holloway is concerned with methods, apparatuses and computer program products for interactive surveying. Holloway provides a survey document in a format defining branches of the questions, such that an answer to a first question may branch to two or more questions. (See, Holloway, para. 5.) Thus, depending on a customer's response to a first question, one or more (alternative) second questions may be presented. Each customer accessing the survey document receives the same first question and, depending on how they answer, may receive the same second question. Consequently, Holloway may encounter the situation in which everybody responding to the survey document provides the same (or nearly the same) answers.

In the rejection, the Examiner states that it would have been obvious to combine the system and method for collecting and analyzing customer information taught by Choi with the system and method for interactive marketing taught by Holloway. Applicant respectfully submits that the combination of Choi and Holloway fails to teach at least the limitations of selecting an offer from a set of offers corresponding to a customer need and business context and analyzing the responses to identify an offer that best fits a customer need and the business context. Thus, these limitations were not known in the prior art.

Choi describes segmentation, but does not appear to teach how the segmentation could be used in any particular business context. Holloway describes a survey document such that there are multiple paths to progress through the document. Applicant respectfully submits that

Holloway's structure and answers are generally provided to categorize the customer. For example, Holloway describes a first question of "architecture supported?" and provides possible answers "Power PC", "X86", and "68K". Thus, at the end of the questions, Holloway's system might know that the customer is a Power PC user using an IBM® designed chip with an associated name and speed. (See, Holloway, paras. 29-33 and Figure 2.) However, the system described by Holloway provides no guarantee that each and every path will be taken. In other words, Holloway teaches a system for categorizing the user such that every user accessing the system may be a Power PC user with an IBM® designed chip. As a result, Holloway might never attain a distribution of responses that can be analyzed to identify an offer that addresses the needs and business contexts for a given profile.

In contrast, embodiments as claimed may select a unique offer (e.g., a contract, a price list) from a set of offers based on a customer profile that is already in place, a need and a business context and present the offer to a customer. (See, specification, paras. 27 and 37.) Other customers matching the same profile may be given alternative offers. The responses to the set of offers may be analyzed to determine which offer provides the best fit for the customer's needs and the business context. (See, specification, paras. 25.) Advantageously, the set of offers may be updated to reflect changes in the business context (e.g. shift from maximizing revenue to maximizing profit), the need (e.g. summer vacation at the beach to a winter vacation at a ski resort), and/or changes in the customer profile.

Although itself has no force of law, the M.P.E.P. restates the following law: The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art. *KSR*, 550 U.S. at ___, 82 USPQ2d at 1395; *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282, 189 USPQ 449, 453 (1976); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 62-63, 163 USPQ 673, 675 (1969); *Great Atlantic & P. Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152, 87 USPQ 303, 306 (1950). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396. If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art. See M.P.E.P. 2143.

In the instant case, the claimed elements were not known in the prior art, one skilled in the art could not have combined the elements as claimed using the disclosures of Choi and Holloway with no change in their respective functions, and the combination of the claimed elements could have yielded more than predictable results to one of ordinary skill in the art. Following the rationale of the above cited case law, there was no support to the conclusion that the claims would have been obvious to one of ordinary skill in the art.

In view of the foregoing, Applicant believes that Claims 1-3, 6-7, 12, 17, 23-24, and 34-43 are patentable over the combination of Choi and Holloway under 35 U.S.C. § 103(a) and therefore should be allowed. Accordingly, withdrawal of the rejections is respectfully requested.

Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-3, 6-7, 12, 17, 23-24, and 34-43. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

Sprinkle IP Law Group
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A handwritten signature in black ink, appearing to read "Katharina Schuster", written in a cursive style.

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